

HOUSE BILL REPORT

HB 1143

As Reported by House Committee On:
State Government Operations & Accountability

Title: An act relating to penalties for violation of the campaign finance and contribution limits, lobbying, political advertising, and public officials' financial affairs reporting subdivisions of the public disclosure act.

Brief Description: Regarding penalties for violations of the public disclosure act.

Sponsors: Representatives Green, Nixon, Haigh, McDermott, Hunt and Morrell; by request of Public Disclosure Commission.

Brief History:

Committee Activity:

State Government Operations & Accountability: 1/28/05, 2/11/05 [DP].

Brief Summary of Bill

- Increases the Public Disclosure Commission's maximum penalties from \$1,000 to \$4,000 for a single violation and from \$2,500 to \$10,000 for multiple violations.
- Allows 60 business days, rather than 45 calendar days, for the Attorney General or a county prosecutor to initiate court proceedings regarding citizen action complaints.
- Changes the amount of time from the citizen's second notice until the citizen may commence proceedings from 10 days to 10 business days.

HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

Majority Report: Do pass. Signed by 6 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Hunt, McDermott and Miloscia.

Minority Report: Do not pass. Signed by 3 members: Representatives Clements, Assistant Ranking Minority Member; Schindler and Sump.

Staff: Marsha Reilly (786-7135).

Background:

The Public Disclosure Act (Act) requires that political campaign and lobbying contributions and expenditures be fully disclosed, as well as the financial affairs of elected officials and candidates. The Act covers campaign financing, maximum campaign contribution limits, political advertising, lobbying, and the financial affairs of public officials. Once the Public Disclosure Commission (PDC) is aware of a possible Act violation, it may pursue administrative remedies or may refer the matter to the Office of the Attorney General (AG) or other law enforcement agencies.

If the remedy or sanction is imposed by a court, the maximum penalty is \$10,000 for each violation. A party who violates the maximum campaign contribution limits may be subject to a penalty of either \$10,000 or three times the amount of the illegal contribution, whichever is greater. If a court finds that a violation probably affected the outcome of an election, the court may declare the election void and a special election must be held within 60 days. If a lobbyist violates the Act, the court may revoke or suspend the lobbyist's registration and may prohibit the person from receiving compensation or making expenditures for lobbying. A court can issue a penalty of \$10 a day for each day that a statement or report is not filed beyond the proper deadline. Failure to report a contribution or expenditure can result in a penalty equivalent to the amount of contribution or expenditure. A court may use injunctive relief or may compel any action necessary to enforce compliance with the disclosure requirements.

If the PDC handles a violation administratively, it must hold a hearing, pursuant to the Act, to determine if a violation occurred, and any order issued pursuant to the hearing is subject to judicial review. If the PDC does find a violation, it may order the respondent to cease and desist from the violating activity, and may impose a civil penalty of up to \$1,000 for an individual violation, and an aggregate penalty of up to \$2,500 for multiple violations included in a single complaint or hearing. The PDC may order any other remedies available to a court. If the respondent does not comply with the order or petition for review, the PDC may seek enforcement through a court.

Any person may bring an action in court in the name of the state for an alleged violation of the Act. First, the person must notify the AG and prosecuting attorney of the reasons the person believes a violation has occurred. If the AG and prosecuting attorney have not commenced an action within 45 days after this first notice, the person must give a second notice that he or she will commence a citizen's action within 10 days.

Summary of Bill:

The maximum limit for PDC issued penalties increases from \$1,000 to \$4,000 for a single violation, and from \$2,500 to \$10,000 for multiple violations included in one complaint.

The number of days that the AG or county prosecutor has to initiate court proceedings regarding citizen action complaints is changed from 45 calendar days to 60 business days. The amount of time from the citizen's second notice until the citizen may commence proceedings,

absent action by the AG and prosecuting attorney, is changed from 10 days to 10 business days.

The public records section of the Act is excluded from the violation procedures and penalty provisions that are the PDC's responsibility.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Fines have not increased for 20 years. Few cases actually are referred. Increasing penalties would allow the PDC to handle more cases internally. The PDC supports this legislation. Ninety-six percent of those required to file, report on time. Of the remaining 4 percent, 92 percent of the enforcement actions are done through brief enforcement hearings. Few egregious cases are referred to the attorney general. In five years, only 21 cases have been forwarded to the attorney general, and half of those could have been handled by the PDC with increased penalties. The change for time limits is needed because of caseloads. It is a better way to manage resources.

Testimony Against: None.

Persons Testifying: Representative Green, prime sponsor; and Vicki Rippie, Public Disclosure Commission.

Persons Signed In To Testify But Not Testifying: None.